

potentially requiring a *Curcio* or some other ethics inquiry. *Id.*

To the government's second point, the fact that New York State courts routinely allow counsel to be present during psychiatric evaluations strongly suggests that Brack's counsel's presence at the evaluation creates neither an ethical violation nor a *Curcio* issue. *See, e.g., Ramsey v. New York Univ. Hosp. Ctr.*, 789 N.Y.S.2d 104, 105 (1st Dep't 2005). Ethical considerations aside, however, the practical issues the government raises here will be the fulcrum for the Court, especially considering that attorney presence at psychiatric hearings is disfavored in federal court. *See United States v. Wilson*, 920 F. Supp.2d 287, 306 (E.D.N.Y. 2012) (collecting cases). The Court's October 10, 2019 Order is thus modified to delete paragraph 2, which states: "Defendant's counsel, Joel Mark Stein, shall have permission to be present for the psychiatric or psychological examination." Scheduling of the evaluation should proceed expeditiously.

Separately, with respect to the government's renewed request to stay the briefing schedule, the motion is granted to the extent that briefing on the motions to suppress is stayed pending resolution of Brack's competency to assist in his own defense, but is otherwise denied, except that the government's deadline for filing its opposition is extended from November 8 to the close of business on November 14, and Brack's deadline for filing his reply is extended from November 15 to the close of business on November 21. The Court, as previously calendared, will hold a status conference and oral argument on all motions other than the motions to suppress on November 22 at 2:30 p.m.

So Ordered.

Dated: Brooklyn, New York
October 31, 2019

/s/Eric N. Vitaliano

ERIC N. VITALIANO
United States District Judge